S.B.CIVIL WRIT PETITION NO.4918/2004

Dr.Bhanwar Singh Jodha

versus

State of Rajasthan & Ors.

Date of Order :: 29th November, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. P.R.Singh, for the petitioner.
Mr. J.P.Joshi]
Mr. M.S.Singhvi] for the respondents.

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The Rajasthan Public Service Commission, Ajmer under an advertisement dated 5.1.2002 invited applications from eligible desirous persons for the purpose of appointment to the post of Assistant Professor in the subject of Obstetrics and Gynecology against existing eight vacancies. Beside other qualificational eligibilities a mandatory requirement given for the purpose of appointment on the post referred above is that the incumbent must possess requisite experience i.e. of three years on the last date of submitting the application form. The persons appearing in the qualifying examinations were also allowed to face selection proceedings but they were required to submit necessary certificate of acquiring required eligibility before participating in interview. The respondent No.3 at the relevant time was appearing in the examinations of M.S. Obstetrics

and Gynecology, therefore, she submitted her eligibility certificate including experience certificate at the time of interview. The respondent No.3 stood selected for the purpose of appointment as Assistant Professor (Obstetrics and Gynecology). Being aggrieved by the same, this petition for writ is preferred with the allegation that on the last date of submission of application form she was not possessing the requisite experience and, therefore, her appointment as Assistant Professor is illegal.

A reply to the writ petition has been filed on behalf of the respondents No.1 and 2 as well as on behalf of the respondent No.3. It is contended by the respondent No.3 that on the date she faced interview she was possessing requisite qualification. It is also stated by the respondent No.3 that even if it is assumed that on the last date of submitting the application form she was not having the requisite experience but the experience gained by her while pursuing the course for qualifying examination after submission of form is required to be taken into consideration in view of clause (7) of the advertisement dated 5.1.2002.

Heard counsel for the parties.

It is the position admitted between the parties that on the date the respondent No.3 faced

interview for the purpose of appointment to the post of Assistant Professor in the subject concerned, she was possessing the qualification prescribed under the Rajasthan Medical Service (Collegiate Branch) Rules, 1962 (hereinafter referred to as “the Rules of 1962”). The Rules of 1962 prescribes eligibility to be considered for appointment to the post of Assistant Professor in various subjects but it nowhere prescribes that such qualification should be available with the person desirous for appointment on the date of submission of the application. In the instant matter on the date the candidature of the respondent No.3 was considered she was having requisite eligibility for appointment as Assistant Professor in the subjects of Obstetrics and Gynecology, therefore, it cannot be said that on the date the candidature of the respondent No.3 was considered for appointment as Assistant Professor she was lacking eligibility. Beside that, the respondent No.3 on the last date of submission of the application form to be considered for appointment as Assistant Professor was undergoing post graduate course and, therefore, the experience acquired by her as a resident even after last date for submitting the application form and prior to facing interview is required to be taken into consideration.

In view of the factual position as stated above the allegation of the petitioner that the respondent No.3 was lacking eligibility to be

considered for appointment as Assistant Professor is having no force.

Accordingly, this petition for writ is dismissed.

(GOVIND MATHUR),J.

kkm/ps.